

REMARKS

Claims 32-56 are pending in this application. By this Amendment, claims 36, 38 and 43 are amended. No new matter is added.

As a preliminary matter, Applicants take this opportunity to point out that claims 32-56 are pending, not claims 32-50 as indicated (see Applicants' September 23, 2004 Preliminary Amendment). Claims 51-56 do not stand rejected and are presumed to be in condition for allowance.

Claims 32-50 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 3,893,952 to Ryska et al. ("Ryska"). This rejection is respectfully traversed.

Claim 32 recites a cell structure having both a plurality of cells and a cavity. Claim 32 recites that both the cavity and the cells pierce through the structure between the two end faces, along the central axis of the cell structure. See, for example, Figs. 1, 4 and 6-11, of the instant specification, which show a monolithic structure that is pierced through by both cells and a cavity. Furthermore, the two recited structures (cells and cavity) are different. Claim 32 recites that the cells are "flow paths for fluid," but never recites that the cavity serves this purpose. Therefore, claim 32 recites both a plurality of cells and a cavity, with the two being distinctive elements.

Moreover, claim 32 recites that the cells have partition walls, and that the walls have specific strength properties. As discussed in Applicants' specification on pages 3 and 4, conventional structures suffered problems in isostatic breaking strength and reliability. The recited strength indices improve such problems.

By contrast Ryska discloses discrete bodies 1 having only a single passage. Figs. 1 and 2 of Ryska clearly show a donut shaped body having a channel 2 through the center. Ryska further discloses that both the outer and inner surface (within the channel) of the body

are coated with a layer 4 of catalyst. This passage could either be interpreted as being analogous to a cell, or analogous to a cavity, but not both.

More fundamentally, the very nature of the invention disclosed in Ryska is substantially different in purpose and operation than the claimed cell structure. Ryska discloses a device for filtering particulate matter from an exhaust system in Fig. 5. Air enters through passage A, and passes through a perforated wall 7 into a chamber 6 filled with small donut shaped pellet bodies 1. See col. 4 lines 50-60 of Ryska. Each of these discrete pellets is a donut body as shown in Figs. 1-4. See col. 4 lines 55-56.

Ryska explicitly states that the purpose of the center channel is to provide a surface for catalyst to adhere to that is protected from contact with other pellets. See col. 4 lines 3-9. This prevents the catalyst from rubbing off over time, due to contact with other pellets.

By contrast, claim 32 recites a cylindrical cell structure with a plurality of cells. These cells are designed to carry air which needs to be filtered. The recited partition walls have absorptive material (allegedly analogous to the catalyst material of Ryska). Thus, the entire design and function of these the instant application and Ryska are completely different. One of ordinary skill in the art would easily recognize that the passage disclosed in Ryska is not equivalent to either the plurality of cells, or the cavity recited in claim 32.

Furthermore, Ryska does not disclose the recited parameter of cell pitch ("CP") or wall thickness ("T"), as recited in claim 32. The Office Action also does not cite any portion of Ryska as disclosing that the "strength index is not less than 0.02." The Office Action instead asserts that these features are "inherent".

To establish inherency, the Office Action must provide evidence or technical reasoning that makes it clear that the missing descriptive matter "is necessarily present in the thing described in the references, and that it would be so recognized by persons of ordinary skill in the art." Inherency may not be established by "probabilities or possibilities. The mere

fact that a certain thing may result from a given set of circumstances is not sufficient." *See* MPEP §2112; *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). The Office Action must provide a basis in fact and/or technical reasoning to show that the "allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *See* MPEP §2112.

The Office Action fails to show that having the proper thickness (T), cell pitch (CP), length (A) and distance (B), such that the strength index of the inner wall is 0.02, is an inherent feature. To the contrary, the instant specification makes clear that having a monolithic structure with a plurality of cells and a cavity, presents unique structural problems (see page 3, lines 10-20). As such, the Office Action has failed to provide sufficient reasoning to support a finding of inherency.

Therefore, for at least the reasons present above, withdrawal of the rejection of claim 32, and claims 33, 34 and 37-50 depending therefrom, is respectfully requested.

Claim 35 likewise recites both a plurality of cells and a cavity. Thus, for the reasons stated above, withdrawal of the rejection of claim 35, and claim 36 depending therefrom, is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 32-56 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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